

ENERGY AND ENVIRONMENT CABINET

Department for Environmental Protection

Division of waste Management

(Amendment)

401 KAR 42:200. Annual fee for underground storage tanks~~[Underground storage tank system owner registration fees]~~.

RELATES TO: KRS 224.10-100, 224.60

STATUTORY AUTHORITY: KRS 224.10-100(28)~~[224.10-100, (30)]~~, 224.60-105, 224.60-150(1).

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.60-150 states that the cabinet shall levy and collect an annual fee of thirty (30) dollars per underground storage tank ~~[(UST) system]~~ from owners or operators of underground storage tanks~~[UST systems]~~ for the purpose of funding the administration of the underground storage tank program. KRS 224.10-100(28)~~[224.10-100(30)]~~ authorizes the cabinet to promulgate administrative regulations not inconsistent with the provisions of law administered by the cabinet. This administrative regulation establishes provisions for the payment of an annual ~~[registration]~~ fee for an underground storage tank.

Section 1. Applicability. This administrative regulation shall apply to all owners and operators of underground storage tanks~~[UST systems]~~.

Section 2. Annual ~~[Registration]~~ Fee. (1) The owner or operator of an underground storage tank shall pay a thirty (30)~~[5]~~ dollar annual ~~[registration]~~ fee for each underground

1 storage tank~~[UST system]~~ that is in the ground, and not permanently closed in accordance with
2 401 KAR 42:070, on July 1 of a year (July 1 through June 30).

3 (2) Payment shall be submitted to the Underground Storage Tank Branch of the Division
4 of Waste Management.

5 (3) Checks shall be made payable to the Kentucky State Treasurer and be submitted
6 within thirty (30) days after receipt of an invoice from the cabinet specifying the required
7 payment.

8 ~~(4)[Section 3. New Registrations. For a new registration, the fee of thirty (30) dollars per~~
9 ~~UST systems, payable to the Kentucky State Treasurer, shall be submitted to the Underground~~
10 ~~Storage Tank Branch along with the initial "UST Facility Registration Form", DEP 7112,~~
11 ~~(January 2006), as required by and incorporated by reference in 401 KAR 42:020.~~

12 ~~Section 4. Amended Registrations. (1) If the "UST Facility Registration Form", DEP~~
13 ~~7112, (January 2006) is amended in accordance with 401 KAR 42:020, to include one (1) or~~
14 ~~more additional UST systems, the amended form shall be accompanied by payment of any~~
15 ~~annual registration fees that may be due, including any outstanding fees for preexisting UST~~
16 ~~systems.~~

17 ~~(2) Fees due shall be calculated at a rate of thirty (30) dollars for each additional UST~~
18 ~~systems for each year (July 1 through June 30) the UST systems was in the ground.]~~

19 ~~(3)]~~ The fee for any year (July 1 through June 30) shall be due if the underground storage
20 tank~~[UST systems]~~ was in the ground on July 1 of that year.

21 ~~(5)[(4)]~~ Fees shall not be due for years prior to the one (1) beginning July 1, 1990.

22 (6) Annual fees shall not be required for an unregistered underground storage tank newly
23 discovered during permanent closure activities conducted in accordance with 401 KAR 42:070.

1 Section 3. Extensions. (1) The owner or operator of a UST system may request an
2 extension to a deadline established by this administrative regulation or established by the cabinet
3 in writing pursuant to this administrative regulation.

4 (2) The extension request shall be submitted in writing and received by the Underground
5 Storage Tank Branch of the Division of Waste Management prior to the deadline.

6 (3) The cabinet may grant an extension, if the cabinet determines that an extension would
7 not have a detrimental impact on human health or the environment.~~[(5 If an unregistered UST~~
8 ~~systems is discovered during permanent closure activities pursuant to 401 KAR 42:070, a one (1)~~
9 ~~time registration fee of thirty (30) dollars shall be submitted for each discovered UST systems~~
10 ~~within thirty (30) days after discovery. Registration fees for previous years shall not be required.~~

11 ~~Section 5. Changes of Ownership. If ownership of a UST system changes, any unpaid~~
12 ~~registration fees shall be the responsibility of the new owner.]~~

401 KAR 42:200 approved for filing.

Date

Leonard K. Peters, Secretary
Energy and Environment Cabinet

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on May 24, 2011 at 10:00 A.M. (Eastern Time) at 300 Fair Oaks, Frankfort, KY 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by May 17, 2011, five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until May 31, 2011. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Cassandra Jobe
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REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Cassandra Jobe

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This administrative regulation establishes the annual fees for underground storage tank owners.

(b) The necessity of this administrative regulation:

This administrative regulation is necessary to establish the annual \$30 fee for each underground storage tank in the ground on July 1 of each year.

(c) How this administrative regulation conforms to the content of the authorizing statutes:

This administrative regulation conforms to the content of the authorizing statute by establishing the requirements for annual underground storage tank fees.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:

This administrative regulation assists in the effective administration of the statute by establishing the annual underground storage tank fee.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation:

The amendment clarifies that newly discovered tanks do not have to pay tank fees. It also removes the requirement for new owners to pay previous owners annual underground storage tank fees.

(b) The necessity of the amendment to this administrative regulation:

This amendment is necessary to clarify the requirements for payment of annual tank fees.

(c) How the amendment conforms to the content of the authorizing statutes:

The amendment conforms to the content of the authorizing statute by establishing requirements for payment of annual underground storage tank fees.

(d) How the amendment will assist in the effective administration of the statutes:

The amendment will assist in the effective administration of the statute by establishing the requirements for payment of annual underground storage tank fees.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:

All underground storage tank owners will be required to pay annual underground storage tank fees. There are currently approximately 11,500 underground storage tanks registered with the Division of Waste Management.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:

There will be no additional requirements from underground storage tank owners to comply with this amendment.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):

There will be no additional cost to the entities to comply with this amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):

There are no benefits to underground storage tank owners and operators to comply with this amendment.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: It will not cost the agency any additional money to implement this amendment.

(b) On a continuing basis: It will not cost the agency any additional money to implement this amendment.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:

The underground storage tank fees collected pursuant to this administrative regulation will be used to fund implementation of this amendment.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:

An increase in the amount of the fee is not necessary to implement this amendment.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees:

This amendment does not establish an increase to a fee.

(9) TIERING: Is tiering applied? (Explain why or why not)

Tiering is not applied. The annual fee is the same for each underground storage tank in the ground on July 1 of each year.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation No. 401 KAR 42:200

Contact Person: Cassandra Jobe

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)?

Yes X No

If yes, complete questions 2-4.

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?

The Division of Waste Management

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.

KRS 224.60-150

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year?

The amendment will not generate any additional revenue for the agency.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years?

The amendment will not generate any additional revenue for the agency.

(c) How much will it cost to administer this program for the first year?

The amendment will not cost the agency any additional funds.

(d) How much will it cost to administer this program for subsequent years?

The amendment will not cost the agency any additional funds.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: